

ORDER NO. 2463

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;  
Tony Hammond, Vice Chairman;  
Mark Acton;  
Ruth Y. Goldway; and  
Nanci E. Langley

Competitive Product Prices  
Priority Mail Express & Priority Mail Contract 11  
(MC2013-1)  
Negotiated Service Agreement

Docket No. CP2013-1

ORDER APPROVING AMENDMENT TWO  
TO A PRIORITY MAIL EXPRESS & PRIORITY MAIL  
NEGOTIATED SERVICE AGREEMENT

(Issued May 1, 2015)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail Express & Priority Mail negotiated service agreement.<sup>1</sup> For the reasons discussed below, the Commission approves Amendment Two.

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<sup>1</sup> Notice of United States Postal Service of Amendment to Priority Mail Express & Priority Mail Contract 11, with Portions Filed Under Seal, April 22, 2015 (Notice). Amendment Two is an attachment to the Notice (Amendment Two).

In Order No. 1509, the Commission approved the Priority Mail Express & Priority Mail Contract 11 negotiated service agreement (Existing Agreement).<sup>2</sup> On April 22, 2015, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On April 23, 2015, the Commission issued an order reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.<sup>3</sup>

The Postal Service intends for Amendment Two to become effective one business day after the date that the Commission completes its review of the filing. Notice at 1. The Postal Service asserts that Amendment Two will not affect the cost coverage of the contract. Notice at 1

## II. COMMENTS

Comments were filed by the Public Representative.<sup>4</sup> No other person submitted comments. The Public Representative reviewed Amendment Two and the Existing Agreement. *Id.* at 1. Based on that review, she concludes that the Existing Agreement, as amended, should continue to generate sufficient revenues to cover costs. *Id.*

## III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the materials initially filed under seal in this docket, and the comments filed by the Public Representative.

*Cost considerations.* The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant

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<sup>2</sup> See Docket Nos. MC2013-1 and CP2013-1, Order Adding Express Mail & Priority Mail Contract 11 to the Competitive Product List, October 22, 2012 (Order No. 1509). The contract was later amended. Order No. 1670, Order Concerning Amendment to Express Mail Express & Priority Mail Contract 11 Negotiated Service Agreement, February 28, 2013.

<sup>3</sup> Order No. 2459, Notice and Order Concerning Amendment to a Priority Mail Express & Priority Mail Negotiated Service Agreement, April 23, 2015.

<sup>4</sup> Public Representative Comments on Postal Service Notice of Amendment to Priority Mail Express & Priority Mail Contract 11, April 29, 2015 (PR Comments).

products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Existing Agreement provides for shipping services for customer's Priority Mail and Express Mail packages. Customer's contract packages qualifying for Tier Volume discounts must originate from locations set forth in the contract. Existing Agreement at 2.<sup>5</sup> Amendment Two modifies the locations from which customers' contract packages qualifying for Tier Volume discounts originate. Amendment Two at 1.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the amended agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of Amendment Two indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.H. of the Existing Agreement should allow the amended agreement's revenues to cover costs for the duration of its term. The Commission will continue to review the cost coverage of the amended agreement in its Annual Compliance Determination to ensure that rates cover costs.

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<sup>5</sup> Docket Nos. MC2013-1 and CP2013-1, Request of the United States Postal Service to Add Express Mail & Priority Mail Contract 11 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 10, 2012, Attachment B at 2.

Amendment Two does not materially affect the underlying financial analysis of the Existing Agreement. Thus, the Commission finds that the Existing Agreement, as amended, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

*Other considerations.* The Amendment shall become effective one business day after the date that the Commission completes its review. Amendment Two at 1. The Existing Agreement, as amended, is set to expire three years after the initial effective date unless, among other things, either party terminates the contract with 30 days' written notice to the other party or it is renewed by mutual agreement.<sup>6</sup>

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

#### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission approves the Priority Mail Express & Priority Mail Contract 11 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Shoshana M. Grove  
Secretary

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<sup>6</sup> Existing Agreement at 11. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.